IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE NINETEENTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION NO : 12007 of 2001

Between:

K.Kumara Swamy, S/o.Balaiah,

Age about 46 years, R/o.

Mahaboobnagar District

.. Petitioner.

AND

1 The Regional Manager, APSRTC,

Mahaboobnagar Region,

Mahaboobnagar District

2 The Depot Manager, APSRTC,

Wanaparthy Depot,

Wanaparthy, Mahaboobnagar District

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order, or direction more particularly one in the nature of writ of Mandamus declaring the action of the respondents in not paying the salary to the petitioner by computing the notional increments and attending benefits as illegal arbitrary and unjust and consequently direct the respondents to pay the salary to the petitioner by computing the notional increments.

Counsel for the Petitioner: MR.G.RAVI MOHAN

Counsel for the Respondent: MR.K.HARINATH , Standing Counsel for APSRTC

The Court made the following :

ORAL ORDER:

The petitioner was initially appointed as Conductor in the respondent-corporation on 29.4.1997. While so, certain allegations were made against the petitioner with regard to cash and ticket irregularities and charges were framed. After conducting enquiry, he was removed from service by proceedings, dated 3.4.1980. Aggrieved by the same, the petitioner raised an industrial dispute, which was registered as I.D.No.514 of 1988 on the file of the Addl. Industrial Tribunal-cum-Additional Labour Court, Hyderabad. The Labour Court-III, Hyderabad numbered it as I.D.No.203 of 1992 and passed the following order on 6.5.1993.

> *"In the result, the award is passed by setting aside the removal order dated 3.4.1980 with a direction to the respondent to reinstate the petitioner into service with continuity of service forthwith on publication of the award. On account of 8 years of delay, the petitioner shall not be entitled to any attendant benefits in between the period of removal till the date of filing of the petition. As a measure of disciplinary action, two increments are to be deducted as if not agreed. The petitioner is not entitled*

to the back wages on account of stick on in the service."

It is stated that the in pursuance of the order passed by the Labour Court-III, Hyderabad, the petitioner was reinstated into service in the month of July, 1993 and the petitioner made representation before the respondents to fix his pay by adding notional increments as per the award of the Labour Court, but the same has not been fixed.

As the Labour Court, while setting aside the removal order directed the respondents to reinstate into service with continuity of service, the petitioner is entitled to continuity of service and consequently notional increments. No doubt, the petitioner is not entitled to any back wages as per the said award and also two notional increments for the period during which he was out of service, but the petitioner is entitled to fixation of notional increments after deducting two increments from out of notional increments.

Having regard to the facts and circumstances of the case, the respondents are directed to fix pay by taking into consideration the notional increments for the period during which the petitioner was out of service pursuant to the award dated 6.3.1993 and after deducting the attendant benefits and also two increments. After fixing the notional increments in accordance with the said award, the petitioner is entitled to the payment of notionally fixed pay from the date of his reinstatement into service.

The writ petition is accordingly disposed of. No costs.

(V.ESWARAIAH,J.)

19th August, 2004

bcj/Ars

To

1 The Regional Manager, APSRTC,

Mahaboobnagar Region,

Mahaboobnagar District

2 The Depot Manager, APSRTC,

Wanaparthy Depot,

Wanaparthy, Mahaboobnagar District

3 Two C.D. copies